

IC 3-11-7.5

Chapter 7.5. Approval of Electronic Voting Systems

IC 3-11-7.5-1

Necessity for approval

Sec. 1. The commission must approve any form of electronic voting system before it may be used at an election.

As added by P.L.3-1987, SEC.250. Amended by P.L.2-1996, SEC.172.

IC 3-11-7.5-2

Submission of application for approval

Sec. 2. A person may submit an application for approval of an electronic voting system in the form prescribed by the commission.

As added by P.L.3-1987, SEC.250. Amended by P.L.2-1996, SEC.173; P.L.3-1997, SEC.290; P.L.221-2005, SEC.57.

IC 3-11-7.5-3

Compliance with statutes required for approval

Sec. 3. The commission may approve an electronic voting system only if the system complies with the requirements of this chapter and IC 3-11-15.

As added by P.L.3-1987, SEC.250. Amended by P.L.4-1991, SEC.79; P.L.2-1996, SEC.174; P.L.176-1999, SEC.73.

IC 3-11-7.5-4

Standards for approval; tests to be conducted by independent laboratory before approving system; marketing, sale, lease, or installation of voting system; expiration of approval

Sec. 4. (a) The commission shall:

- (1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;

before determining whether to approve the application for certification of an electronic voting system.

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses under this section.

(c) If the commission finds that an electronic voting system complies with this article, the commission may approve the system. The approved system then may be adopted for use at an election.

(d) An electronic voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(e) An approval of an electronic voting system under this chapter expires on the date specified by section 28(a) of this chapter.

As added by P.L.3-1987, SEC.250. Amended by P.L.4-1991, SEC.80; P.L.2-1996, SEC.175; P.L.176-1999, SEC.74; P.L.221-2005,

SEC.58.

IC 3-11-7.5-5

Proposed changes to voting system; tests to be conducted by independent laboratory before approval; criteria for approval; marketing, sale, lease, or installation of changes; expiration of approval

Sec. 5. (a) A vendor may apply for approval of a proposed improvement or change to an electronic voting system that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the application for the improvement or change is approved by the commission.

(b) An application for approval of an improvement or a change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this subsection.

(d) The election division (or the person designated under IC 3-11-16) shall review the improvement or change to the voting system and report the results of the review to the commission. The review must indicate:

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under 42 U.S.C. 15371; and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

(e) After the commission has examined and approved the application for an improvement or change to an electronic voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(f) An approval of an application under this section expires on the date specified by section 28(a) of this chapter.

As added by P.L.3-1987, SEC.250. Amended by P.L.4-1991, SEC.81; P.L.2-1996, SEC.176; P.L.3-1997, SEC.291; P.L.176-1999, SEC.75; P.L.14-2004, SEC.111; P.L.221-2005, SEC.59.

IC 3-11-7.5-6 Repealed

(Repealed by P.L.3-1997, SEC.475.)

IC 3-11-7.5-7

Voting system must meet specifications

Sec. 7. The commission may not approve the marketing, sale, lease, installation, or implementation of an electronic voting system unless the system meets the specifications in sections 8 through 19 of this chapter and in IC 3-11-15.

As added by P.L.3-1987, SEC.250. Amended by P.L.4-1991, SEC.82;

P.L.2-1996, SEC.178; P.L.176-1999, SEC.76; P.L.221-2005, SEC.60.

IC 3-11-7.5-8

Secrecy

Sec. 8. An electronic voting system must ensure secrecy to a voter in the act of voting.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-9

Potential for voting for any candidate or on any public question

Sec. 9. An electronic voting system must provide facilities that will permit votes to be cast for any candidate at any election and for or against any public question.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-10

Voting potential of system

Sec. 10. An electronic voting system must permit a voter to vote:

- (1) except at a primary election, for all the candidates of one (1) political party, for one (1) or more candidates of each political party, or for one (1) or more candidates nominated by petition;
- (2) for as many candidates for an office as the voter may vote for, but no more;
- (3) for or against a public question on which the voter may vote, but no other; and
- (4) for all the candidates for presidential electors of a political party or an independent ticket at one (1) time.

As added by P.L.3-1987, SEC.250. Amended by P.L.3-1993, SEC.141.

IC 3-11-7.5-11

Multiple vote prevention feature

Sec. 11. An electronic voting system must prevent a voter from voting for the same candidate or for or against the same public question more than once.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-12

Single party primary voting potential

Sec. 12. An electronic voting system must be adjustable for use in a primary election so that a voter may not vote for a candidate except those seeking nomination as candidates of the voter's political party.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-13

Accuracy in registering and counting votes

Sec. 13. An electronic voting system must correctly register and accurately count all votes cast for each candidate and for or against each public question.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-14

Security against unauthorized voting

Sec. 14. An electronic voting system must be designed so that it can be determined whether the system has been operated after once being secured against additional voting.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-15

Voter counting device

Sec. 15. An electronic voting system must be able to indicate during an election how many voters have voted by use of a counting device.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-16

Votes cast counting device; security against voting upon removal of device

Sec. 16. An electronic voting system must have a counting device that records the number of votes cast for each candidate and for or against each public question on the ballot that cannot be tampered with or altered at any time while votes are being cast on the system. When the computer memory pack that permits votes to be recorded on the counting device is removed, the system must be designed so that it can no longer be placed into operation.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-17

Prevention of voting outside polling hours

Sec. 17. An electronic voting system must have a device or method that prevents the operation of the system before the time for opening the polls and after the time for closing the polls.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-18

System identification number

Sec. 18. Each electronic voting system must bear a number that will distinguish it from any other system.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-19

Ballot label protective sheet

Sec. 19. An electronic voting system must have the frame in which the ballot label is placed constructed with a transparent protective sheet in order that the names cannot be mutilated or altered.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-20

Repealed

(Repealed by P.L.221-2005, SEC.145.)

IC 3-11-7.5-21

Adoption and procurement of system

Sec. 21. A county executive may purchase, procure, lease, install, implement, or authorize the use of an electronic voting system only after the system has been approved by the commission.

As added by P.L.3-1987, SEC.250. Amended by P.L.4-1991, SEC.83; P.L.2-1996, SEC.179; P.L.221-2005, SEC.61.

IC 3-11-7.5-22

Requirement of written guarantee to keep electronic voting system in working order

Sec. 22. A county executive also may not purchase or procure an electronic voting system unless the person selling the system has guaranteed, in writing, to keep the system in working order at least five (5) years.

As added by P.L.3-1987, SEC.250. Amended by P.L.7-1990, SEC.47.

IC 3-11-7.5-23

Phase in of system

Sec. 23. If it is impossible to supply each precinct with an electronic voting system at an election following the adoption of the systems in a county, as many systems shall be supplied as it is possible to procure. The county election board shall determine the precincts of the county in which the systems will be used.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-24

Custody of system while not in use

Sec. 24. The circuit court clerk is responsible for the care and custody of all electronic voting systems while not in use.

As added by P.L.3-1987, SEC.250.

IC 3-11-7.5-25

Experimental use of system

Sec. 25. The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption by the county or purchase but the electronic voting system must be approved by the commission before the system is implemented in or used by the county. The experimental use of a system at an election in accordance with this section is valid for all purposes as if formally adopted by the county.

As added by P.L.3-1987, SEC.250. Amended by P.L.2-1996, SEC.180; P.L.14-2004, SEC.112.

IC 3-11-7.5-26

Examination of previously approved voting system; rescission of

approval; prohibition of use

Sec. 26. (a) The election division (or the person designated under IC 3-11-16) may periodically examine an electronic voting system that the commission has previously approved to determine whether that system is still in compliance with all statutory requirements and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.

(b) If a system does not comply with subsection (a), the commission may rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may prohibit the system from being installed, implemented, leased, marketed, used, permitted to be used, or sold for use in Indiana in an election conducted under this title.

As added by P.L.4-1991, SEC.84. Amended by P.L.3-1993, SEC.142; P.L.2-1996, SEC.181; P.L.3-1997, SEC.292; P.L.176-1999, SEC.78; P.L.126-2002, SEC.58; P.L.14-2004, SEC.113; P.L.221-2005, SEC.62.

IC 3-11-7.5-27

Filing contracts, leases, or purchase orders with election division

Sec. 27. (a) The county executive shall file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The documents listed in subsection (a) must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.

As added by P.L.4-1991, SEC.85. Amended by P.L.2-1996, SEC.182; P.L.3-1997, SEC.293; P.L.221-2005, SEC.63.

IC 3-11-7.5-28

Expiration of approval of voting system; renewal of approval; notice of request for renewal; conditions

Sec. 28. (a) Except as provided in subsection (g), the approval of an electronic voting system under this chapter expires October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person. Before acting on the

application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.

(e) After receiving the report under subsection (d) and comments from interested persons, the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(f) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(g) A vendor subject to subsection (f) may continue to provide support during the period specified in subsection (f) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

As added by P.L.3-1993, SEC.143. Amended by P.L.2-1997, SEC.10; P.L.3-1997, SEC.294; P.L.14-2004, SEC.114; P.L.221-2005, SEC.64.